

Remarks

Claims 1-11 are pending. Claims 7-11 have been withdrawn pursuant to a previous restriction requirement. Figures 1 and 2 are amended and a replacement sheet is enclosed.

The Examiner objected to Figures 1 and 2, requiring Applicant to designate Figures 1 and 2 as "prior art". Applicant has amended Figures 1 and 2 to indicate that website server 105 includes "website data gathering software." As demonstrated below, such a website server is not taught in the prior art. Thus, as amended, Applicant respectfully submits that the Examiner's objection is believed overcome.

The Examiner rejected Claims 1-4 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,484,176 ("Sealand") in view of "Database Management Systems" ("Ramakrishnan") and further in view of "Intelligent agents: A primer" by Searcher et al. ("Searcher").

Applicant respectfully traverses the Examiner's rejection of Claims 1-4. As amended, Applicant's Claim 1 recites data gathering software for updating the database in the website server:

1. An apparatus for allowing a seller of items to gather data from e-commerce websites, comprising:

a website server computer connected to the Internet, including a database for storing data about previous sales of said items on one or more of the e-commerce websites,

b. database management software for maintaining said database,

c. data gathering software that visits the e-commerce websites to compile said data about said previous sales, and

d. application software for allowing a user to

request from the database said data about said previous sales.

With data gathering software that is capable of visiting and collecting e-commerce websites, the database in the website server provides up-to-date information about even the most recent sales. In the Examiner's rejection, the Examiner contends that one of ordinary skill in the art would incorporate the teachings of Searcher into the teachings of Sealand:

... Sealand discloses an apparatus for allowing a seller of items to gather data from a server in order to optimize the sale of similar items, comprising: a server computer connected to the Internet (Figure 1A, items "12" and "23"; col. 4, lines 16-31, lines 58-60); a database on the server computer for storing data about items that have previously been sold (Figure 1A, item "14"; col. 1, lines 34-43; col. 3, lines 14-17; col. 4, lines 16-31); application software for allowing a user to request information from the database about previous sales of items similar to the one that the seller has for sale (Figure 1A, item "13"; col. 1, lines 34-43, line 64 -- col. 2, line 12; col. 4, lines 16-31; col. 6, line 63 - col. 7, line 7). ... The cited prior art does not teach data gathering software that visits the servers to compile said data about previous sales. However, Searcher discloses intelligent agents (i.e., agent software) for searching various websites to obtain data for commercial transactions (page 15, lines 19-22) based on user-specific or agent-specified rules (page 5, lines 23-27). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Searcher into the invention of the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to automate the searching process and make the digital world less overwhelming, as taught by Searcher (page 1, page 3, lines 15-21). ...

However, the Examiner's combination of the teachings Sealand and Searcher is made by disregarding the expressed teachings of Sealand. Specifically, Sealand teaches that its real estate database, whose access is strictly restricted to a specifically qualified group under secured conditions, is updated only using information provided by its subscribing individual real estate agencies:

In the residential segment of the real estate industry,

computerized real estate information databases, known as multiple listing service (MLS) databases, have become the premier source of centralized real estate listing information. MLS databases enjoy widespread acceptance throughout the industry. Individual real estate agencies subscribe to the MLS and provide information about properties both listed and sold. Access is ordinarily restricted to licensed real estate professionals, appraisers, and lending institutions. ...

In the described embodiment, four preferences need be specified, a Department of Real Estate (DRE) license number 61, a password 62, a phone number 63 and a modem initialization string 64, although other preferences are also feasible. Upon the completion of the specification of preferences, the preferences can be saved by pressing the virtual "Save" button 65 or discarded by pressing the virtual "Cancel" button 66....

(Sealand, at col. 1, lines 15-23 and col. 7, lines 23-27; emphasis added)

Thus, the designer of Sealand's real estate databases deems it necessary for its purpose to restrict both the authority to update the databases and the authority to access the databases. However, the Examiner's combination of Sealand's and Searcher's teachings, as quoted above, would require that Sealand's real estate databases be open to accesses by data gathering software, and be allowed to be updated by data gathering software using data collected from rival real estate databases. In other words, the Examiner's combination would require a modification that renders Sealand unsatisfactory for its expressed purpose of strict control in both access and update authorities. As provided in the MPEP, at § 2143.01, this result indicates that there is no motivation or suggestion to make the Examiner's combination of teachings:

MacPherson Kwok Chen & Heid  
LLP  
1762 Technology Drive, Suite 226  
San Jose, CA 95110  
Telephone: (408) 392-9250  
Facsimile: (408) 392-9262

**V. THE PROPOSED MODIFICATION CANNOT  
RENDER THE PRIOR ART UNSATISFACTORY FOR  
ITS INTENDED PURPOSE**

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)...

Thus, Applicant respectfully submits that the Examiner's combination of Sealand's and Searchers teachings fails for lack of suggestion or motivation. Accordingly, Applicant respectfully submits that Claim 1 and its dependent Claims 2-4 are allowable over Sealand, Ramakrishnan and Searcher. Reconsideration and allowance of Claims 1-4 are therefore requested.

The Examiner rejected Claims 5-6 under 35 U.S.C. § 103(a) as being unpatentable over Sealand, in view of Ramakrisnan and further in view of Searcher and the Examiner's Official Notice. The Examiner states:

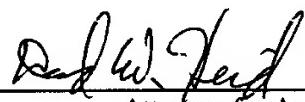
Referring to claims 5 and 6: The cited prior art teaches or renders obvious all of the limitations of claims 2 and 3 as noted above. The cited prior art does not expressly disclose establishing a network connection for enabling the agent software to communicate over the Internet with an e-commerce website. However, Official Notice is taken that it is old and well known-in the art to establish a network connection for providing Internet connectivity for any software. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate a network connection for the agent software in the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to allow the agent software to communicate over the Internet.

Applicant respectfully traverses the Examiner's rejection of Claims 5-6. As discussed above, the Examiner's combination with respect to Claims 1-4 fails for lack of suggestion or motivation to combine the teachings of Sealand and Searcher. As the Examiner's Official

Notice does not cure the failure to suggest or motivate the Examiner's combination of the other prior art, the Examiner's Official Notice is therefore irrelevant without regards to its merits. Therefore, as Claims 5-6 each depend from Claim 1, Claims 5-6 are each allowable over the teachings of Sealand, Ramakrisnan and Searcher and the Examiner's Official Notice. Accordingly, reconsideration and allowance of Claims 5-6 are therefore requested.

For the reasons stated above, Applicant submits that all elected claims (i.e., Claims 1-6) are allowable and their allowance is earnestly sought. If the Examiner has any question regarding the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant at 408-392-9250.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 20, 2006.



Attorney for Applicant

3/20/2006  
Date of Signature

Respectfully submitted,

  
*for*

Edward C. Kwok  
Attorney for Applicant  
Reg. No. 33,938

MacPherson Kwok Chen & Heid  
LLP  
1762 Technology Drive, Suite 226  
San Jose, CA 95110  
Telephone: (408) 392-9250  
Facsimile: (408) 392-9262

Amendments to the Drawings

In the enclosed Replacement Sheet 1 Figures 1 and 2 have been amended by inserting "with website data gathering software" beneath "website server computer". This addition does not constitute new matter because it changes the drawings to make them consistent with the specification.

MacPherson Kwok Chen & Heid  
LLP  
1762 Technology Drive, Suite 226  
San Jose, CA 95110  
Telephone: (408) 392-9250  
Facsimile: (408) 392-9262